

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON NATURAL RESOURCES AND COMMERCE

Call to Order: By **CHAIRMAN JEFF PATTISON**, on January 13, 2003 at 8 A.M., in Room 317-C Capitol.

ROLL CALL

Members Present:

Rep. Jeff Pattison, Chairman (R)
Sen. Edward Butcher (R)
Rep. John Musgrove (D)
Sen. Linda Nelson (D)
Rep. Rick Ripley (R)
Sen. Debbie Shea (D)

Members Excused: Sen. Bill Tash, Vice Chairman (R)

Members Absent: None.

Staff Present: Kelly Gorin, OBPP
Gary Hamel, Legislative Branch
Elaine Olsen, Committee Secretary
Doug Schmitz, OBPP

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Tape counter shows beginning count of material that follows.

Committee Business Summary:

Hearing(s) & Date(s) Posted: Department of Natural Resources, 1/13/2003

{Tape: 1; Side: A; Approx. Time Counter: 1 - 23}

Gary Hamel, Legislative Fiscal Division (LFD), gave an overview of the Resource Indemnity Trust(RIT), highlighting current law, how the tax is distributed, some of the proposed changes, and how those affect the income balances. The interest on the \$100 million trust is used as a funding source for various state agencies. At the beginning of Fiscal 2003, the trust balance had an excess of \$2,000,000. During the Special Session, a \$1,000,000 funding switch transferred money to the Reclamation and Development account to be used as a funding switch within the Department of Natural Resources and Conservation(DNRC) in order to reduce the pressure on General Fund.

EXHIBIT(jnh06a01)

EXHIBIT(jnh06a02)

Gary Hamel continued, stating that \$300,000 was used for weed eradication, \$540,000 was used for water treatment at the Landusky Mines, \$120,000 was used for the Clark Fork River Study, and up to \$100,000 was to be used for subdivisions, conservation districts and irrigation grants in Fiscal 2003.

Gary Hamel stated that Section Two on the exhibit describes the two RIT funding sources: Resource Indemnity Groundwater Assessment(RIGWA)tax and 8.36 percent of the oil and gas tax. The Revenue and Transportation Interim Committee administers the RIT interest and tax distributions. The RIGWA tax is just over \$1,000,000 for fiscal 2004 and 2005. A direct distribution of \$366,000 is made to the Groundwater Assessment account, with 50 percent of the remainder to reclamation and development. The Natural Resource Scholarship Account receives up to \$150,000, and the remainder goes to the Orphan Share Account.

Gary Hamel reported that the applicable oil and gas tax is used to fund the various RIT accounts. The first \$400,000 comes from the Coal Bed Methane account, and the rest is split 50/50 between reclamation and development and orphan share.

Gary Hamel highlighted the relevant projects listed in Section Three which receive direct interest allocations. Renewable Resources receives 25.5 percent of the remainder of the interest, reclamation and development receives 45 percent, hazardous waste receives 22 percent, and the Environmental Quality Protection Fund(EQPF)receives the remaining 7.5 percent of the direct interest allocation.

Gary Hamel stated that in Section Four he had developed a projected available beginning fund balance for each particular fund as part of the RIT for Fiscal 2004, taking into account continuing appropriations, any reserved amounts of the fund balance, any 2003 appropriations, and any Legislative adjustments. Metal mines tax, RIGWA and RIT interest are added to that figure for the 2005 biennium along with any cost recoveries, transfers, and administrative fees.

The other requested appropriations from the RIT 2005 biennium, including House bills and agency requests, are described in Section Four. These requests would exceed the available funding.

Gary Hamel continued, describing the flow chart showing the applicable amount of oil and gas tax which feed the RIT funds. The first amount is for the coal bed methane protection account. The balance is split 50/50 with reclamation and development and the orphan account. During the Special Session HB10 produced a split that moved the funding from reclamation and development, diverting it into General Fund. The same proposal exists this session.

Gary Hamel described the flow of the RIT direct interest earnings in the Budget Book, noting the only change is a reduction for the Department of Fish Wildlife and Parks (FWP) Future Fisheries Program. The balance of the RIT earnings is illustrated. A table illustrates the changes, and a final page indicates the projected ending fund balances. Renewable resource projections are a negative balance of \$1.1 million; reclamation and development, a negative balance of \$3.4 million; hazardous waste, a negative \$193 thousand; \$52 thousand for EQPF; groundwater assessment, \$237 thousand; water storage, \$833 thousand; and orphan shares, \$1.8 million.

Gary Hamel noted that at any given time these balance would be higher than those listed. These figures assume all the appropriations are going to spent in this biennium. A revenue adjustment for reclamation and development is coming that will affect the fund. Individual agencies will be requesting appropriations from this fund.

Gary Hamel stated that this concluded his overview of how the RIT will be affected, the RIT tax distribution, and how the RIT interest is distributed.

{Tape: 1; Side: A; Approx. Time Counter: 23 - 30}

REP. RIPLEY asked about Future Fisheries appropriations, noting one figure at \$500,000, while it is \$350,000 in another.

Gary Hamel explained that it is the amount of direct interest allocation distributed to FWP each fiscal year. During the Special Session the appropriation was reduced from \$500,000 each year to \$350,000 each year. The proposed change in this session reduces the amount to \$250,000 per fiscal year.

SEN. NELSON asked why the amounts were printed as negative amounts. **Gary Hamel** explained that the figures show the total amount of RIT interest earnings, and that what he is trying to arrive at is the amount available for distribution. Those figures are shown as being distributed to the various funds and are therefore negative entries.

CHAIRMAN PATTISON inquired if the trust interest was being invested through the State Board of Investments (BOI) and how the interest was being handled. **Gary Hamel** stated that the amount of interest is handled through the Revenue and Transportation Interim Committee.

SEN. BUTCHER asked if the Committee could see what the earning rates have been on the interest fund since 2000 so the Committee could see any fluctuations to allow for planning for 2005. **Doug Schmitz** replied that the interest earnings are down.

John Tubbs, DNRC, stated that this fund had been a stable revenue source as it is part of a pool bond program at the BOI which includes the Coal Severance Tax, permanent fund, and many other long-term bond investments since 1972. The risk in this flow of revenue is the taxes on oil and gas and the tax on coal mining. The risk in getting to the bottom line on this account is whether the taxes come in.

CHAIRMAN PATTISON asked if the executive determined the proposed fund allocations.

{Tape: 2; Side: B; Approx. Time Counter: 1 - 12}

Gary Hamel replied that the requests go through the Budget Office where it is determined how they fit into HB2.

SEN. BUTCHER asked if the Committee members would receive a list of the grants under HB6 and HB7 so they could get an idea where the grants are going. **Gary Hamel** stated that the agencies will be discussing how their projects stand with the funding.

CHAIRMAN PATTISON stated that the House bills are subject to amendments and changes. The figures the Committee are working from are based on the current status of the house bills.

SEN. BUTCHER asked if the projects were primarily annual completions or are they carry-overs from one budget to the next. **Gary Hamel** answered that some projects carry over from year to year.

{Tape: 1; Side: B; Approx. Time Counter: 12 - 18}

Gary Hamel stated that the figures in the RIT Fund overview in the budget books are subject to change.

In response to a request from **CHAIRMAN PATTISON**, **Gary Hamel** provided additional information on the impact of the global action budget rollback on the Coal Tax Fund allocations. In the recent Special Session, a million dollars was taken out of the RIT excess trust balance and was put into reclamation and development. Then, within DNRC, there was a million dollar fund switch, reducing the General Fund base. The Committee is still under direction to start with the change from adjusted base; in effect, to arrive at a negative decision package total of \$2.7 million dollars in each of the fiscal years for DNRC.

Doug Schmitz stated that the overall Legislative action illustrated on the first handout pertains only to the General Fund. Action is being taken and is proposed that will effect the RIT and will have an effect on the ultimate General Fund balance at the end of the session.

CHAIRMAN PATTISON stated that it was his understanding that with this account, anything that is not taken in reverts to the General Fund. That is a primary reason the Committee did some of the funding switches. **Doug Schmitz** stated the unappropriated balances left in these accounts remain in the fund balances. It is in the shared Coal Severance Account where unappropriated balances revert to the General Fund.

Gary Hamel stated that the starting point for DNRC is the fiscal 2002 base expenditures, allowing for state-wide present law adjustments, resulting in the adjusted base without the executive budget decision. He reviewed the options available to the Committee for arriving at the proposed reductions.

Gary Hamel reported that the agencies will be providing information on how to arrive at the Legislative target. LFD options are highlighted, including alternative funding sources and the reduction or elimination of lower priority programs.

{Tape: 1; Side: B; Approx. Time Counter: 18 - 23}

Doug Schmitz indicated that the Executive Branch is proposing a reduction in General Fund of \$404,000 in 2004 and \$372,000 in

2005. The extra \$2.3 million is a result of the earlier global action.

SEN. NELSON asked **Gary Hamel** if the amounts in the gray area were agency reductions. **Gary Hamel** replied that those figures were decisions packages (DP) contained in the executive budget proposal. If the Committee accepted the Governor's proposed reduction, they could allocate the amount against the total unspecified reduction.

REP. MUSGROVE asked the **CHAIRMAN** how much funding the Committee might have to work with to bring this back up to the Governor's budget. **CHAIRMAN PATTISON** replied that the Committee had some leeway, but the funding amounts were up to the Committee.

{Tape: 1; Side: B; Approx. Time Counter: 23 - 30}

Bud Clinch, Director, Department of Natural Resources and Conservation (DNRC), addressed the Committee, beginning with comments on RIT program funding. **Director Clinch** stated that the various agencies and programs funded by RIT funds change every year based on the ending fund balance in both the General Fund and RIT and other funding sources. He stated that the agencies make presentations about programs, then the Committee looks to see where funding might be available. Agency funding from RIT was considerably greater several years ago. The entities in RIT are there because at the end of last appropriation cycle there was an ending fund balance.

Director Clinch gave an overview of DNRC, emphasizing the complexity and ramifications of the budgeting process. DNRC was reorganized in 1995 in a restructuring project involving Department of Environmental Sciences and Public Health, Department of State Lands, and the old DNRC, downsizing them to two agencies, Department of Environmental Quality (DEQ) and DNRC.

Director Clinch continued, stating that of the Department's 505 FTE, two-thirds of them are located outside Helena in field offices. The mission statement for DNRC is "To help to ensure Montana's land and water resources provide benefits for present and future generations." The Department deals with water, soil, range land, school trust lands, fire protection, oil and gas conservation, grants and loan programs, general stewardship on both and state and private lands, and a variety of other activities.

Director Clinch reported that the Department is divided into seven divisions. The Trust Lands Management Division deals with the management of 5.5 millions acres of School Trust Lands. The Forestry Division deals with trees and timber, fire protection,

and assistance to private landowners with forestry issues. The Conservation and Resource Development Division handles conservation efforts over a broad variety of landscapes and financial and development activities. The Water Resource Division handles many diverse issues with water in Montana. Centralized Services handles all accounting, payroll and necessary ancillary services.

{Tape: 2; Side: A; Approx. Time Counter: 1 - 6}

Director Clinch stated that following the reorganization in 1995, the Department consolidated several water and land offices, citing seven sites that have been unified. Two divisions are administratively attached to DNRC: Oil and Gas Conservation and the Reserved Water Rights Compact(RWRC). A wide variety of boards and commissions have direct oversight or have an advisory role within the Department. The Board of Land Commissioners is made up of the top five elected official in state government. They have constitutional and statutory authority over the disposition and management of school trust lands.

The Reserved Water Rights Compact Commission(RWRCC) provides oversight to the staff of the RWRC. The RWRCC is made up of public appointees, legislative appointments and a representative from the Attorney General's office. Their role is in the negotiations of water rights settlements on the federally held water rights across Montana.

The Board of Oil and Gas Conservation has quasi-judicial authority over the regulation and permitting of oil and gas.

The Board of Water Well Contractors is appointed by the Governor and provides regulatory authority over the permitting of all water wells in Montana.

The Resource Conservation Advisory Council and Rangeland Resources Committee are two Governor-appointed Committees that provide direct oversight to Department activities within conservation and resource development.

The Montana Grass Conservation Commission provides oversight and decisions relative to grass conservation activities. The Montana Agricultural Heritage Commission was originally a part of a program to purchase of conservation easements on agriculture lands across the state. The funding has been removed but the Commission still remains. The Governor's Drought Advisory Committee provides suggestions relative to the management of water during times of drought.

{Tape: 2; Side: A; Approx. Time Counter: 6 - 9}

Director Clinch began an overview of the divisions within the DNRC, beginning with the RWRC which was established by the Legislature and is administratively attached to the DNRC. The RWRC has a staff of 11, and they are involved with quantification of water and with water rights issues on federal lands. The charge of the RWRC is to negotiate rather than litigate with the United States Forest Service(USFS), the Bureau of Land Management(BLM), United States Fish and Wildlife Service(USFWS), eight Tribal governments and other federal entities holding water rights in Montana. Seven compacts have been negotiated.

{Tape: 2; Side: A; Approx. Time Counter: 9 - 21}

SEN. SHEA inquired how often they negotiate the compacts.

Director Clinch replied that it depends on when the negotiations are completed.

SEN. BUTCHER asked if the compacts have to be revisited.

Director Clinch replied that in theory, once a compact is ratified, it is set in perpetuity.

SEN. BUTCHER inquired about the draining of Fort Peck by the Corps of Engineers. **Director Clinch** replied that Fort Peck is not a compact issue. The water in Fort Peck has not been allocated in any compact.

In follow-up, **SEN. BUTCHER** asked if DNRC was involved in the Fort Peck issue. **Director Clinch** replied that he has been meeting bimonthly with his counterparts from the other eight states and the Tribes that border the Missouri River, trying to resolve water management issues. Five other main stem reservoirs exist between the headwaters and confluence with the Mississippi. Further downstream the population becomes more dense. Upper basin states--North Dakota, South Dakota, Wyoming and Montana--and the lower basin states--Iowa, Kansas, Missouri and Nebraska--differ in their use of the water, and it becomes a question of political clout. The State of Missouri alone has more congressmen than the four upper basin states combined.

REP. RIPLEY asked about the nature of the interaction between DNRC and Fish Wildlife and Parks(FWP). He also asked how DNRC was involved with the Bean Lake ruling.

Jack Stoltz, Division Administrator for the Water Resources

Division, stated that DNRC disagreed with the Supreme Court's ruling but feel positive about parts of the ruling. The ruling was made within the prior appropriation doctrine, and it did make

the ruling consistent with "first in time is first in right."
The decision is now in the Water Court.

REP. MUSGROVE asked about the economic impact of the "lengthy process" in Judge Loble's court. **Jack Stoltz** replied that when the process is complete, it will have a very positive impact on economic development.

{Tape: 2; Side: A; Approx. Time Counter: 22 - 30}

Director Clinch continued his overview of the RWRC, stating that it is funded by General Fund. Prior to entering into a negotiation, the staff completes a thorough mapping, quantification, ground proofing and a record search of the water in the entire basin.

The Trust Land Management Division manages 5.2 million acres of "school sections" i.e., lands mandated by the federal government in 1889 when Montana became a state, to be used as a revenue source to help fund education. Because of other federal designations, the lands are irregularly designated across areas of the state.

Some state lands have been sold, but the sub-surface mineral rights were retained.

SEN. BUTCHER commented that it appeared that the school lands in the northeastern part of the state where there is oil would be a higher resource for the state. **Director Clinch** stated that the block of lands does have some problems.

{Tape: 2; Side: B; Approx. Time Counter: 1 - 11}

The Board of Land Commissioners is constitutionally directed to do the oversight of trust lands and must approve of the disposition of any school trust assets and all timber sales. Land-use issues include the management of timber, grazing, farming, oil and gas, coal mines, and natural gas. Because the DNRC manages a "portfolio" of assets for the best return, the Department is involved in a wide variety of activities including recreational use, outfitting, commercial development, anti-ballistic missile sites, and radio towers.

Director Clinch continued, stating that the Department struggles with the conflicts that arise between the fiduciary responsibility of managing the State School Trust properties to produce revenue and the expectations of the public. It is critical for the Department to hold true to the trust mandate.

CHAIRMAN PATTISON inquired about the proposal to sell all trust lands and manage the resulting funds. **Director Clinch** replied

that the public does not want their School Trust properties to be taken out of public ownership. A land banking proposal is before this Legislature and would allow for the occasional sale of lands when appropriate, with the money to be put in a holding account for the purchase of replacement lands.

SEN. BUTCHER asked what Director Clinch considered problem lands. **Director Clinch** stated problem properties come in all shapes and locations. Some isolated tracts could be considered a problems as they are hard to access, and there is no competition for their use.

Director Clinch reported that in the last year, revenues from the common school land portions totaled \$45,185,830 for education. The interest dollars from the revenues from the permanent fund bring the total to over \$55 million. The Trust Lands Division is totally funded out of State Special Revenue from receipts. For every dollar the Division is appropriated, they return about seven dollars.

{Tape: 2; Side: B; Approx. Time Counter: 12 - 19}

Director Clinch stated that the four million acres of agriculture and grazing lands on School Trust Lands are leased for about one million animal units per month(AUM). Grazing produces about \$5- to \$6 million dollars in revenue. Other aspects of surface leasing include forest management which is operated on a sustained-yield basis and generates between \$5 million and \$10 million. During the 2000 fire season, 14,000 acres of School Trust Lands were burned. An aggressive salvage operation was initiated, and three-fourths of the volume of burned wood was removed that first winter. Salvage was completed in the following operating season. Over 35 million board-feet was removed, and that salvage resulted in over \$5 million in timber receipts. Salvage operations are ongoing on all the more recently burned forests.

REP. RIPLEY asked what the receipts might have been if the timber had been harvested before the fires. **Director Clinch** replied that generally, the value of the timber is reduced by 50 percent as a result of a burn. The salvage was completed within 90 days. Any longer than that and the stumpage values are reduced to about 25 percent of what they would have been as green timber.

Director Clinch stated that minerals on School Trust Lands supply revenue upwards to \$10 million annually.

SEN. BUTCHER asked if the State Lands was able to retain coal bed rights. **Director Clinch** replied that the vast majority of School Trust Lands receive the coal mineral rights.

Director Clinch stated that the State of Montana retains ownership of the bed and banks of all navigable water ways. DNRC State Trust Lands Division also manages all the mineral rights for these areas. When the mineral royalties are apportioned by the Board of Oil and Gas, School Trust lands are entitled to apportion of the royalties from the stream bed.

REP. MUSGROVE asked if the portion of state-owned stream beds and banks is subtracted from the taxes of the private landowner.

Director Clinch clarified that the state owns the subsurface mineral rights.

{Tape: 2; Side: B; Approx. Time Counter: 19 - 30}

Director Clinch discussed additional special uses management on School Trust lands, describing a sub-division, a small mall on leased property, and a motel. As the city encroaches on traditional agriculture land, it makes no sense to manage those lands for agriculture or grazing.

SEN. BUTCHER asked what happened to the improvements when the lease ended. **Bob Harrington, Forestry Division Administrator, DNRC**, stated that at the end of the lease term, the lessee has the right to apply for renewal of the lease. If the lease is not renewed, then the state is obligated to compensate the lessee for the full market value of their improvements. If the lessee chooses not to renew, the State of Montana either acquires the improvements or can direct their removal.

Director Clinch stated that in addition, the Division is involved in land transfer easements including highways, county roads, pipelines, and utility corridors and access to private property. State land management is much more than timber sales and grazing leases. Management includes a portfolio of 5.4 million acres of surface land and 6.1 acres of subsurface scattered across the state on 41,000 separate tracts, with each one of those tracts dedicated to a specific beneficiary.

Director Clinch began an overview of the Forestry Division. The Division administers wild land fire protection, fire prevention and fire suppression programs. The State of Montana has direct fire protection responsibilities for about five million acres, primarily in the western part of the state, including School Trust Lands and intermingled private lands. DNRC establishes fire crews, engine crews, strategic location of initial strike helicopters, as well as availability of a nation-wide network of resources.

Director Clinch stated that in addition to the direct fire protection responsibilities, the Division has the County Co-op

Program which encompasses the rest of the state. DNRC assists with money, grants, pass-through funding, training, and the loan of fire equipment. The county can ask for state intervention when a fire in the jurisdiction exceeds the county's capabilities.

The State does not appropriate money to DNRC for pay the bills associated with fire fighting. The base budget is appropriated, allowing for staffing to a certain level. During the fire season, temporary help is brought on. During a fire the payroll increases to as high as an additional 1,250 firefighters. Expenses are paid from the appropriated base budget, and then the Department comes to the Legislature for reimbursement and supplemental.

{Tape: 3; Side: A; Approx. Time Counter: 1 - 12}

REP. MUSGROVE asked Director Clinch about the difference between the renting and owning of helicopters. **Director Clinch** replied that in the aviation program, the equipment is received through a federal excess property program at considerable cost savings.

SEN. BUTCHER asked if the vehicles are all in one pool. **Director Clinch** stated that the federal government limits the uses of the helicopters dispersed through excess property. In some cases the helicopters are unsuited for other uses.

CHAIRMAN PATTISON asked about the funding switches that take place when a fire is designated a disaster. **Director Clinch** replied that when a fire reaches such a magnitude that the Governor declares it an emergency, funds become available.

CHAIRMAN PATTISON asked if a set criteria is established for declaring an emergency disaster and if so, who reports that determination to the Governor. **Director Clinch** stated that he was not specifically aware what criteria had to exist to declare a fire an emergency.

Director Clinch stated that the amount of money on hand for the Department to operate for the biennium is approximately enough to operate through March. This low balance was caused by back-to-back fire years, causing the Department to have to borrow from other programs to pay fire expenses. An in-depth look at the fire program is needed to resolve this funding issue and to help maintain confidence and credibility.

Director Clinch stated that many of the "horror stories" about the rental of fire equipment or the implementation of fire crews during fires cannot automatically be attributed to the DNRC fire

crews. Most of the fire fighting done in Montana is done by the USFS.

{Tape: 3; Side: A; Approx. Time Counter: 12 - 23}

Director Clinch stated that the Service Forestry Bureau manages the State Nursery, growing seedling and nursery stock, providing the seedlings for reforestation on State Trust Lands and providing stock for windbreaks, shelter belts, and conservation claims. Trees are sold to Conservation Districts, FWP and other entities for reclamation, wildlife habitat, and reforestation of both state and private lands.

The State Nursery operates under a proprietary account on its own receipts. The nursery enjoys a great relationship with the Montana Nurserymen's Association, agreeing to produce and market for that part of the market that commercial nurseries traditionally do not address.

SEN. BUTCHER asked if the Department marketed through wholesale or direct sales. **Director Clinch** replied that the marketing was very limited. The Bureau sells to State Trust Lands and other state agencies with the major marketing being done through Conservation Districts, with qualifying restrictions on sale and use

Director Clinch continued, stating the Service Forestry Bureau also operates a test management program on forest lands for state and private lands, doing an inventory analysis and forest tests, making recommendations to private forest managers about insect infestations and appropriate responses, and advising private landowners about land management aspects of timber harvests and stream-side management zones.

The Bureau does some minimal regulatory work on forest practices through the stream-side management zone laws and laws which reference the reduction of fuel hazards in logging projects.

Director Clinch described the Community Forestry program which advises communities on trimming, planting and management of trees. The program is 100 percent federally funded with grants available for community projects.

The Stream-side Management Zone Law was passed in 1991 and sets standards for forest practices on property adjacent to perennial streams. The Department provides oversight, response to complaints and regulation of those activities. The Bureau administers the Best Management Practices, a general terminology for the set of forest practices rules that govern how an individual would go about having a timber operation in Montana.

Onsite audits are done to determine the compliance with the forestry rules, and the program has met with good participation and cooperation.

{Tape: 3; Side: A; Approx. Time Counter: 23 - 30}

Director Clinch gave an overview of the Conservation and Resource Development Division (CRDD) starting with the Conservation Districts Bureau. The 58 districts are charged with implementing stewardship practices, conserving of soil and water, and implementing the 310 Law, which addresses the management of perennial streams. Districts provide financial assistance as well as technical assistance.

REP. MUSGROVE asked Director Clinch if the districts were established taking into consideration other regional entities. Ray Beck, Administrator of the CRDD, stated that the boundaries followed primarily county lines with a couple of exceptions.

SEN. BUTCHER asked if the agency had any parallels in the regions with other agencies. **Director Clinch** replied that some DNRC Regional offices are located in the same area as the Conservation District offices.

Director Clinch continued, explaining that Conservation Districts deal with a variety of grant programs, resource practices with rangeland activities, riparian management, salinity control, and drought. The Conservation Districts serve as a state-wide network for outreach and for many state programs.

Director Clinch addressed the Loan and Financial Management Bureau which is responsible for administering state and federal dollars. The Bureau handle the state revolving funds for waste and drinking water programs associated primarily with city and town infrastructures.

{Tape: 4; Side: A; Approx. Time Counter: 1 - 15}

The Development Bureau also handles Treasure State Endowment Program (TSEP) loans, irrigation development programs, as well as the water reservations.

Director Clinch reported that the advisory boards attached to the Division are Resource Conservation Advisory Council, Rangeland Resources Committee, and the Grass Conservation Commission which is the governing body for the Agricultural Heritage Commission.

Director Clinch stated that the Water Resources Division deals with water management, water rights, and the Toston Dam hydro power plant.

SEN. BUTCHER asked what it cost to generate a kilowatt hour.

Jack Stoltz said he would obtain that figure. **Director Clinch** stated that because of the debt retirement associated with the plant, it would not be economically advantageous to privatize the project.

Director Clinch said the State Water Projects Bureau started as a Legislative effort to develop water projects in order to enhance agriculture and other businesses. Among the current projects are the Tongue River Reservoir, East Fork of Rock Creek, Deadman's Basin, and Petrolia, plus countless numbers of delivery systems which include canals and ditches. The Bureau works with water users associations to do project rehabilitation and project management.

Director Clinch described the evacuation of the people of Rock Creek when it was feared Rock Creek Dam might breach in 2000. Emergency plans were put in place as far downstream as Missoula. He continued, describing the coordination of the improvements on the Tongue River Reservoir to rehabilitate the dam and to accommodate the water rights compact with the Northern Cheyenne.

SEN. BUTCHER asked if there is a long-range plan to deal with the silting problem behind the dams. **Director Clinch** stated that silting is not as much of a problem as the maintenance of the dams themselves.

Director Clinch stated that DNRC is transferring ownership of many of the projects to the private sector. The funding for the Dam Rehabilitation Projects come from hydro power revenue, funds in reserve or loans are obtained by the Water User Association, and from the Water Storage Account.

{Tape: 4; Side: A; Approx. Time Counter: 15 - 27}

Director Clinch reported that the Water Management Bureau is involved with water users, working to minimize the impact of grazing and irrigation diversions during drought years. In addition, they are involved with land management practices. The Bureau works to minimize the impacts of land management activities on Montana's water, and they work with water users to protect ground water.

As part of the outreach, the Water Management Bureau is involved with water resource education, state-wide Water Management Plan, drinking water supply for communities, and drought mitigation. The Bureau provides the staffing and the background information for the Drought Advisory Committee.

Director Clinch said the Water Operations Bureau is responsible for the Dam Safety Program, with some limited regulatory authority attached. Routine dam inspections are a part of their program. The Flood Plain Management and regulations involve interaction with local communities, Federal Emergency Management Act(FEMA) and the Federal Flood Plains Insurance program. The Water Measurement Program was established after the last drought and focuses on identifying de-watered streams. The Board of Water Well Contractors is attached to this Bureau and provides oversight on well drilling in Montana. DNRC provides staffing for record keeping and for well inspections.

Director Clinch said the Water Rights Bureau is responsible for protecting existing water rights and for the adjudication and appropriations of new rights.

REP. MUSGROVE inquired about the difference in private water wells and coal bed methane water wells. **Director Clinch** replied that statute does not require permits for wells of 35 gallons per minute or less. Use of more than 35 gallons per minute demands a permit. **Jack Stoltz** said a water right is a private property right; it is a right to use the water. Coal bed methane development water is a by-product; drillers don't use the water. Because there is no private property right attached to that water, it falls under the regulatory responsibility of the Board of Oil and Gas.

Director Clinch stated that the Governor's Drought Advisory Committee is attached to this Bureau and is chaired by Lieutenant Governor Ohs. The Committee tries to project the amount of available water and address the impact that will have on agriculture and rangeland resources. The Committee deals with federal assistance that comes available and makes preparations for the upcoming fire season.

Director Clinch said the Board of Oil and Gas and Conservation Division has quasi-judicial responsibilities because they have the regulatory authority over the development, permitting and reclamation of oil and gas resources on state and private land. They are charged with conservation and preventing waste, as well as oversight of the Underground Injection Control Program. The funding is totally State Special Revenue.

{Tape: 4; Side: A; Approx. Time Counter: 27 - 31}

Director Clinch gave an overview of the Centralized Services Division which contains the fiscal, data processing, training, personnel, legal, and payroll responsibilities.

Director Clinch, DNRC, summarized stating, "We're Montana. We're everything from Ekalaka to Libby; we're coal bed methane, we're timber sales and we're fire fighting."

REP. MUSGROVE asked Director Clinch how much went back into the Department budget when HB474 was rejected and the Montana Power Authority under DNRC's umbrella was dropped. **Director Clinch** said that HB474 had assigned those responsibilities, but had never appropriated any money. **Director Clinch** referenced a report on Trust Land Management that was distributed to the Committee.

{Tape: 4; Side: B; Approx. Time Counter: 1 - 14}

Director Clinch stated that the Department had come forth with the executive budget. The global action taken by the Legislature was subsequent to that. The reduction assigned to the Department was \$5.4 million. During the Special Session, DNRC suggested RIT funds be substituted into DNRC budget for General Fund and that those General Funds be applied to the deficit. This resulted in an additional \$2 million cut.

Ann Bauchman, Division Administrator, Centralized Services

Division, stated that the Division is made up of the Director and a staff of four people with two vacant positions. The Division includes the Department legal staff of seven with one vacancy. The Fiscal Bureau is comprised of eight people with competencies in trust accounting, bond and loan accounting, and contractual and grant agreements. The Bureau handled all the bills from the 2000 fire season when more firefighters were mobilized than any time in Montana's history.

The Procurement and Contracting Bureau has a staff of three and handles over 400 requisitions and over 300 contracts. The Personnel Bureau is comprised of five staff people. They handle training, all personnel issues, and payroll for over 500 employees plus the temporary fire fighting staff. **Ann Bauchman** highlighted recent savings which had resulted by putting training programs on CDs, thus eliminating of a lot of travel to field offices

EXHIBIT (jnh06a03)

During the 2000 fire season, the payroll increased from 500 FTE to 1,500. This increase was managed without an increase in staff. The 13 staff members in the Information Technology Bureau support all IT programs including graphics and editing.

The proposed executive budget is \$2.49 million in FY04 and \$2.3 in FY05 and is made up of about 78 percent General Fund with the

rest on the funding from State Special and federal revenue. Based on the global action the Legislature took last week, prorating the \$5.4 million reduction throughout the Divisions, Centralized Services would see an additional \$600,000 reduction increase from this executive budget.

Ann Bauchman stated the current DPs include one present law adjustment which asks for a negative DP involving a request for an increase in rent. DNRC is in a non-state building, and the negotiated rent is a 3 percent increase in FY04 and FY05. The base year of FY02 shows a separation allowance for an employee who was RIFd, and this will not be an ongoing expense.

The Water Resource Division office is moving into a state building, resulting in a reduction in General Fund for parking. The IT Bureau is moving a trust land management database from the state mainframe onto a personal computer platform, with a savings of \$23,000 for each year. A new proposal for rewiring to accommodate the IT Bureau in the basement of the Helena office would use federal funds.

Ann Bauchman continued, stating that to meet the executive budget reduction, Centralized Services has eliminated 3 FTEs: the deputy director, an IT support position in Kalispell, and a receptionist position. A fourth FTE reduction would be an attorney position. **Gary Hamel** provided a breakdown of each DP by the funding, including the cost of present law adjustment and new proposals.

EXHIBIT (jnh06a04)

Ann Bauchman stated that DNRC would withdraw the request for federal funds for rewiring. They propose that the \$18,300 be retained in contracted services for rewiring or for other contracted services which might arise in areas where the Department has reduced FTEs.

Ann Bauchman stated that the total impact of the reduction of four FTEs in the Centralized Services Division would be \$442,378. She requested that since there is a negative decision package within the Water Resources Division, the reduction be applied against the Water Resource DP, and the reductions be retained in Centralized Services.

Director Clinch explained that the DNRC Division administrators would be presenting additional negative decision packages in an effort to meet the added budget reductions for the Department necessitated by the Legislative global action adopting 2002 as the base year.

CHAIRMAN PATTISON asked Committee members to let him know if they wanted to attend a tour at Montana State University. The CHAIRMAN announced that DNRC would be providing an informational viewing of a siphon pipe from the Milk River.

ADJOURNMENT

Adjournment: 12 P.M.

REP. JEFF PATTISON, Chairman

ELAINE G. OLSEN, Secretary

JP/EGO

EXHIBIT (jnh06aad)